

Serial No. 10/621,627, filed 7/17/2003
60,130-1790; 03MRA0203

REMARKS

Applicant wishes to thank the Examiner for the detailed remarks and allowability of claims 8 and 9. Applicant has amended the claims, and new claims 11-16 have been added. Therefore, claims 1-16 are pending.

Claims 8 and 9 have been written in independent form to include the limitations of the base claim and any intervening claims. Thus, claims 8 and 9 should be in condition for allowance.

Claims 2 and 6 were amended to comply with the Examiner's request to write out "ABS" in its entirety the first time presented in a claim set.

The Examiner rejected claims 1-3 under 35 USC §102(b) as being anticipated by *Ehrlich, et al.* The Examiner contends that *Ehrlich, et al.* discloses the steps of Applicant's claims, including controlling a vehicle component other than the warning device in response to the fault code by modifying an air pressure level in the brake chambers. Applicant's claims recite limiting vehicle speed in response to lateral movement of the wheel end reaching a predetermined value. Thus, the Applicant's claims recite a responsive relationship between limiting the vehicle speed and the lateral movement. In contrast, *Ehrlich, et al.* does not disclose controlling the speed of a vehicle in response to lateral movement. The Examiner cited paragraph 31 of *Ehrlich, et al.*, which merely states that a braking level is controlled and that there is an ECM to control a warning system to alert the operator as described in the remainder of the published application. Paragraph 31 does not disclose a responsive relationship between limiting the vehicle speed and the lateral movement. Furthermore, the axial sensing element 126 of *Ehrlich, et al.* is in communication with the ECM and, if an axial change in distance is detected, the ECM activates a circuitry to provide a warning light in the cab to alert a driver of a potential problem. See page 6, paragraph 75. Thus, *Ehrlich, et al.* discloses providing a warning light in response to lateral movement, not limiting vehicle speed in response to lateral movement as recited in the Applicant's claims. Accordingly, claims 1-3 are properly allowable.

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The Examiner rejected claims 5-7 under 35 USC §102(b) as being anticipated by *Ehrlich, et al.* The Examiner contends that *Ehrlich, et al.* discloses a vehicle component other than the warning device that is controlled in response to the fault code. As described above, *Ehrlich, et al.* discloses activating a warning light in response to lateral movement of a wheel hub and does not disclose that the braking system is controlled in response to detection of lateral movement of the wheel hub. Accordingly, claims 5-7 are properly allowable.

The Examiner rejected claim 5 under 35 USC §102(b) as being anticipated by *Cochrane, et al.* The Examiner contends that *Cochrane, et al.* discloses a vehicle component (wheel gates 32, 34) other than the warning device that is controlled in response to fault code (wheel gates keep the wheels close to the vehicle in the event the wheels become disconnected from the remaining wheel end assembly). The Applicant's amended claim 5 recites that the vehicle component other than said warning device is in electrical communication with the controller and controlled in response to the fault code. The wheel gates 32, 34 of *Cochrane, et al.* are not in communication with a controller (sensors 58) and do not operate in response to a fault code as recited in Applicant's amended claim 5. Accordingly, claim 5 is properly allowable.

The Examiner rejected claim 4 under 35 USC §103(a) as being unpatentable over *Ehrlich, et al.* The Examiner contends that it would have been obvious to one skilled in the art at the time of the invention to modify the step of limiting vehicle speed to approximately 5 mph or less. The Applicant respectfully disagrees with the Examiner's interpretation of *Ehrlich, et al.*, as described above. *Ehrlich, et al.* discloses activating a warning light in response to lateral movement of a wheel hub and does not disclose the step of limiting vehicle speed in response to lateral movement. Without the step of limiting vehicle speed in response to lateral movement, one of ordinary skill in the art would not be motivated to modify *Ehrlich, et al.* as proposed. Accordingly, claim 4 is properly allowable.

The Examiner rejected claim 10 under 35 USC §103(a) as being unpatentable over *Ehrlich, et al.* in view of *Bell*. The pending application and *Bell* were, at the time of the invention by the applicant, owned by ArvinMeritor Technology, LLC. Therefore, the Applicant respectfully requests that the Examiner withdraw the rejection under 35 USC §103(c).

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For purposes of 35 USC §103(c), *Bell* is not §103(a) prior art. The Examiner's attention is directed to the attached Declaration under CFR 1.131, which states that *Bell* was published after the invention by the Applicant.

It is believed that no additional fees are due, however, the Commissioner is authorized to charge Deposit Account No. 50-1482, in the name of Carlson, Gaskey & Olds, for any additional fees or credit the account for any overpayment.

Respectfully submitted,

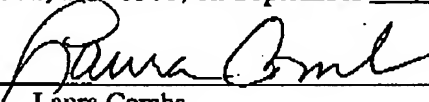


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CERTIFICATE OF TRANSMISSION UNDER 37 CFR 1.8

I hereby certify that this correspondence is being facsimile transmitted to the United States patent and Trademark Office, fax number (571) 273-8300, on September 21, 2005.



Laura Combs